IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.523 OF 1990

The State of Maharashtra ...Appellant.

v/s

1. Tajuddin Gulpan Fakir,
Age 54, R/o Ashta, Tal. Walava,
Dist: Sangli. ...Respondent.

Mr. A.S. Shitole APP for the State.

Mr. Umesh Mankapure with Mr. R.V. More for the respondent.

CORAM: V.M. KANADE, J.
DATE : 11TH JANUARY, 2005

ORAL JUDGMENT:

1. Heard the learned Counsel appearing for the State and the learned Counsel appearing on behalf of the respondents.

2. State has preferred this appeal challenging the judgment and Order passed by the Special Judge, Sangli in Special Case No.8 of 1986. By the said Judgment and Order dated 23/3/1990, the Special Judge acquitted the accused of the offence punishable under section 161 of the Indian Penal Code and section 5(1)(d) read with section 5(2) of the Prevention of Corruption Act, 1947. Being aggrieved by the said judgment and order, present appeal has been preferred by the State.

3. Prosecution case is that the accused was working as Head Constable at Kavathe Mahankal Police Station. Prosecution case is that the accused demanded Rs 200/- from the complainant for registering the complaint which he had lodged at the said Police Station for making inquiry against the accused persons. Prosecution case is that a complaint was filed with Anti Corruption Bureau and, thereafter, a trap was led by the Officers of the Anti Corruption Bureau. A pre-trap panchanama was prepared and the accused was apprehended after he had accepted the said amount from the complainant Shivaji Akaram Wavare.

4. Prosecution examined six witnesses. The Trial Court, after appreciating the evidence adduced by the prosecution came to the conclusion that the prosecution had not proved its case beyond the reasonable doubt and acquitted the accused on the ground that he was entitled to the benefit of doubt.

5. The learned APP appearing on behalf of the State has taken me through the judgment and order of the Trial Court as also the oral and documentary evidence adduced by the prosecution.

6. The learned Trial Court, in my view, has given cogent reasons for not accepting the prosecution case. The Trial Court has observed that there was an enmity between Shivaji, Maruti Patil and the accused and that Maruti Patil and others had burst fire crackers and had distributed sweets at the time when the raid was conducted by the Anti Corruption Bureau. The Trial Court further observed that there were many criminal cases pending against the complainant. The Trial Court, therefore, did not rely on the evidence of the complainant and has observed that the explanation given by the accused was a plausible explanation. The accused has in his statement under section 313 of the Criminal Procedure Code has stated that he had paid that amount of Rs 200/- to the complainant for purchasing goat from him. The Trial Court has observed that though there was no evidence on record to show that Shivaji was running a mutton shop, however, considering the other circumstances, the Court came to the conclusion that the explanation offered by the accused appear to be probable. The Trial Court also has observed that the theory of the demand made by the accused appear to be improbable as no particulars were given by the complainant regarding demand. P.W. 3 - Shivaji and P.W. 3 - Patil have

given different versions regarding acceptance of the bribe amount by the accused. The Trial Court, in my view, has given cogent reasons for coming to the conclusion that the charge against the accused has not been proved beyond the reasonable doubt. The view taken by the Trial Court is a possible view. I do not see any reason to interfere with the said judgment and order particularly when the incident in question has taken place nearly 18 years ago. Appeal is, therefore, dismissed.

V.M. KANADE, J.